



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 29, 1994

Mr. R. Michael Groom
Groom & Groom, P.C.
Attorneys at Law
1204 South Third
Mabank, Texas 75147

OR94-762

Dear Mr. Groom:

The City of Mabank, which you represent, has received a request under the Texas Open Records Act, chapter 552 of the Government Code, for the tape recordings of an executive session of the city council.¹ The request was made by a municipal employee who was the subject of discussion during the executive session. Your request was assigned ID# 26918.

A governmental body is required by the Open Meetings Act, Gov't Code ch. 551, to either keep a certified agenda or make a tape recording of the proceedings of each closed session, except for a private consultation with its attorney. Gov't Code § 551.103(a). You contend that the tape recordings are within section 552.101 of the Government Code, and are therefore not subject to public disclosure. Section 552.101 provides that information is excepted from required public disclosure under the Open Records Act "if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

Your contention is correct. In Open Records Decision 495 (1988), this office determined that certified agendas and tapes of executive sessions held under the exceptions of the Texas Open Meetings Act are deemed confidential by law within section 552.101 of the Government Code, and thus are not available for inspection under

¹The requestor is also seeking other information. Because you have not asked this office for a ruling regarding this other information, we assume that you have provided it to the requestor.

the Open Records Act.² This office also determined that the attorney general lacks authority to review such tapes pursuant to the Open Records Act. *See* Open Records Decision No. 495 at 4. Accordingly, you may not release these tapes to the requestor. We are returning them to you unreviewed.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Susan L. Garrison
Assistant Attorney General
Open Government Section

SLG/MAR/rho

Ref.: ID# 26918

Enclosures: Open Records Decision No. 495
Tape recordings

cc: Mr. James Wells
Wells Investigations
P.O. Box 896
Mabank, Texas 75147
Texas State License A-07293
(w/o enclosures)

²Attorney General Opinion DM-227 (1993) determined that a governmental body may permit a member of the body who participated in a closed meeting to review the certified agenda or tape recording of that meeting.